

## **REMARKS**

Claims 1-14 have been canceled. Claims 15-30 have been previously added. Applicants have amended claims 15 and 23 and canceled claims 17 and 25. Thus, claims 15-16, 18-22 and 24-30 are currently pending and presented for examination. Applicants respectfully request reconsideration and allowance of the pending claims view of the foregoing amendment and the following remarks.

### Response to Rejections Under Section 102:

Claims 15-16, 20, 23-24 and 28 stand rejected under 35 U.S.C § 102(b), the Examiner contending that these claims are anticipated by Betki et al (USPN 5237975) and DE10059570. Applicants have amended claims 15 and 23 to include the limitation of canceled dependant claims 17 and 25, respectively.

Amended claims 15 and 23 recite determining the vaporization characteristic of the fuel by the control and regulation device using an output signal of a Lambda probe.

In contrast Applicants respectfully submit, Betki et al. teaches using a fuel temperature sensor and an intake manifold/fuel differential pressure sensor to determine a fuel pump pressure to avoid fuel vaporization, and does not use an output signal of a Lambda probe. Furthermore, in discussing the §103 rejections, the Examiner states that Betki et. al. does not disclose determining the vaporization characteristics using a Lambda probe signal.

Also, DE10059570 teaches using an engine coolant temperature to determine a minimum fuel pressure limit to avoid fuel vaporization. Again, neither Betki et. al. nor DE10059570 teach the use of a Lambda probe output signal for determining the vaporization characteristic of the fuel.

In view of the above, Applicants respectfully submit that amended claims 15 and 23 are not anticipated by Betki et al or DE10059570. Furthermore, Claims 16, 20, 23-24 and 28 which depend on claims 15 and 23 are also patentable at least based on their dependence from claims 15 and 23 as well as based on their own merits. Therefore, Applicants respectfully request that the Examiner withdraw the Section 102 rejections.

Response to Rejections Under Section 103:

Claims 17-19, 21-22, 25-27 and 29-30 stand rejected under 35 U.S.C § 103(a) as being unpatentable over Betki et. al.

The Examiner contends that it would have been obvious for "one of ordinary skill in the art to utilize an existing signal available to the computer such as the Lambda probe signal ... using a signal indicative of engine temperature to determine fuel vaporization characteristics is within the level of skill in the art."

MPEP 2144.03 (E) states:

Any rejection based on assertions that a fact is well-known or is common knowledge in the art without documentary evidence to support the examiner's conclusion should be judiciously applied. Furthermore, as noted by the court in *Ahlert*, any facts so noticed should be of notorious character and serve only to "fill in the gaps" in an insubstantial manner which might exist in the evidentiary showing made by the examiner to support a particular ground for rejection. It is never appropriate to rely solely on common knowledge in the art without evidentiary support in the record as the principal evidence upon which a rejection was based.

Furthermore, Applicants respectfully submit that the Examiner has misunderstood the function of the Lambda probe in the present invention. The Lambda probe signal is not utilized to determine fuel temperature, rather the Lambda probe signal is used to determine the vaporization behavior of the fuel, for example the vaporization behavior of a winter fuel versus a summer fuel. Applicants contend that the use of the Lambda probe signal to determine the vaporization behavior of the fuel is not obvious to one skilled in the art and the Examiner has failed to provide evidentiary support that it would be obvious to one of ordinary skill in the art to use the Lambda probe signal to determine the vaporization behavior of the fuel.

For the reasons discussed above, Applicants respectfully submit that claims 17-19, 21-22, 25-27 and 29-30 are patentable and respectfully request withdraw of the Section 103 rejections.

In view of the foregoing remarks, Applicants respectfully requests allowance of claims 15-16, 18-22 and 24-30.

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Conclusion

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. All correspondence should continue to be directed to our below-listed address. Accordingly, Applicants respectfully request that the Examiner reconsider the objections and rejections and timely pass the application to allowance. Please grant any extensions of time required to enter this paper. The commissioner is hereby authorized to charge any appropriate fees due in connection with this paper, including fees for additional claims and terminal disclaimer fee, or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

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